

106TH CONGRESS  
2D SESSION

# H. R. 4612

To provide for the conservation and rebuilding of overfished stocks of Atlantic highly migratory species of fish, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2000

Mr. SAXTON introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To provide for the conservation and rebuilding of overfished stocks of Atlantic highly migratory species of fish, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Atlantic Highly Migra-  
5 tory Species Conservation Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) Highly migratory species of fish, including  
9 North Atlantic swordfish, species of Atlantic billfish,  
10 and Atlantic large coastal sharks, are overfished and

1 require greater conservation as confirmed by recent  
2 scientific assessments. In its most recent analysis,  
3 the Standing Committee on Research and Statistics  
4 of the International Commission for the Conserva-  
5 tion of Atlantic Tunas estimated that a number of  
6 key stocks of highly migratory species have less than  
7 the biomass needed to produce their respective max-  
8 imum sustainable yields. The 1999 SCRS stock as-  
9 sessment estimated that the North Atlantic sword-  
10 fish stock was at 65 percent of the necessary bio-  
11 mass to produce maximum sustainable yield. The  
12 1997 SCRS stock assessment estimated that the At-  
13 lantic blue marlin stock was at 24 percent, and the  
14 Atlantic white marlin stock was at 23 percent, of the  
15 necessary biomass to produce MSY. In its most re-  
16 cent stock assessment for Atlantic sailfish/spearfish,  
17 the SCRS estimated these stocks were at 62 percent  
18 of the necessary biomass to produce MSY. Also, the  
19 National Marine Fisheries Service has identified  
20 North Atlantic swordfish, Atlantic blue marlin, At-  
21 lantic white marlin, Atlantic sailfish/spearfish, and  
22 other highly migratory species of fish as overfished.

23 (2) A reduction in the mortality of undersized  
24 swordfish will contribute substantially to the rebuild-  
25 ing of North Atlantic swordfish as confirmed by a

1 1998 SCRS report that expressed “concern about  
2 the high catches (landings plus discards) of small  
3 swordfish” and “emphasized that gains in the yield  
4 could accrue if fishing mortality on small fish could  
5 be further reduced.”

6 (3) In 1998, ICCAT adopted a resolution di-  
7 recting the SCRS to develop options for rebuilding  
8 North Atlantic swordfish to levels that would  
9 produce the maximum sustainable yield, including  
10 alternative methods for reducing small fish mor-  
11 tality, for consideration at the ICCAT meeting in  
12 1999.

13 (4) Reducing the mortality of species of Atlan-  
14 tic billfish, including Atlantic blue marlin, Atlantic  
15 white marlin, and Atlantic sailfish/spearfish, will  
16 contribute substantially to the rebuilding of these  
17 stocks.

18 (5) In 1990, ICCAT encouraged its member  
19 states to take appropriate measures within their na-  
20 tional jurisdictions to protect small swordfish, in-  
21 cluding the establishment of time and area closures.

22 (6) Significant reductions in the mortality of ju-  
23 venile swordfish, Atlantic white marlin, Atlantic blue  
24 marlin, Atlantic sailfish/spearfish, species of Atlantic  
25 large coastal sharks, and other highly migratory spe-

1       cies of fish within the exclusive economic zone of the  
2       United States can be achieved by the design and im-  
3       plementation of discrete, scientifically based time-  
4       area closures for pelagic longline fishing.

5               (7) A credible, scientifically based time-area clo-  
6       sure for pelagic longline fishing that would achieve  
7       reductions in the bycatch and mortality of overfished  
8       highly migratory species within the United States  
9       exclusive economic zone will provide a model for ap-  
10      plying the same conservation concept more broadly  
11      in international waters through ICCAT in further  
12      pursuit of the goal of rebuilding the stocks of these  
13      species.

14              (8) The time-area closures for pelagic longline  
15      fishing within the United States exclusive economic  
16      zone that will achieve the conservation objectives for  
17      swordfish, billfish, and large coastal sharks in the  
18      Atlantic Ocean and Gulf of Mexico and that will re-  
19      duce conflicts between commercial and recreational  
20      fishermen will result in harmful economic impacts on  
21      United States commercial fishermen who engage in  
22      pelagic longline fishing, as well as their families.  
23      Such harmful economic impacts can be offset by a  
24      fair and equitable buyout of the permits and licenses  
25      of certain pelagic longline fishing vessels.

1           (9) There is a great need for the National Ma-  
2           rine Fisheries Service to conduct additional scientific  
3           research, in cooperation with pelagic longline fishing  
4           vessels, to identify the uses and configurations of pe-  
5           lagic longline fishing gear that are most effective in  
6           reducing bycatch.

7   **SEC. 3. PURPOSES.**

8           The Congress declares that the purposes of this Act  
9   are—

10           (1) to expand the scientific knowledge and un-  
11           derstanding of Atlantic highly migratory species and  
12           the fisheries of the United States, including rec-  
13           reational and commercial research, both design and  
14           deployment;

15           (2) to contribute to the conservation and re-  
16           building of overfished stocks of highly migratory spe-  
17           cies, including North Atlantic swordfish, Atlantic  
18           white marlin, Atlantic blue marlin, Atlantic sailfish/  
19           spearfish, and Atlantic large coastal sharks, through  
20           reductions in mortality and the protection of those  
21           nursery and spawning areas that may occur within  
22           the exclusive economic zone of the United States, to  
23           levels that will produce maximum sustainable yield,  
24           in compliance with United States obligations under  
25           the International Convention for the Conservation of

1 Atlantic Tunas and consistent with section  
2 301(a)(1) of the Magnuson-Stevens Act (16 U.S.C.  
3 1851(a)(1)) and section 304 of the Magnuson-Ste-  
4 vens Act (16 U.S.C. 1854);

5 (3) to minimize socio-economic impacts on  
6 United States commercial fishermen and their fami-  
7 lies, consistent with section 301(a)(8) of the Magnu-  
8 son-Stevens Act (16 U.S.C. 1851(a)(8)) and the re-  
9 quirements of chapter 6 of title 5, United States  
10 Code (popularly known as the Regulatory Flexibility  
11 Act), resulting from the conservation actions taken  
12 under this Act;

13 (4) to ensure a sustainable fishery and a sus-  
14 tainable United States pelagic longline fishery for  
15 the future;

16 (5) to minimize both bycatch, including regu-  
17 latory discards, consistent with the Magnuson-Ste-  
18 vens Act and the international obligations of the  
19 United States, and marine mammal and sea turtle  
20 mortality as required by the Marine Mammal Pro-  
21 tection Act of 1972 and the Endangered Species Act  
22 of 1973;

23 (6) to support and encourage the United States  
24 Government's efforts to obtain international agree-  
25 ments that provide for effective fishery conservation

1 and management consistent with the policies set  
2 forth in section 2(c) of the Magnuson-Stevens Act  
3 (16 U.S.C. 1801(c)) and to provide the necessary  
4 leadership for achieving greater international con-  
5 servation of highly migratory species;

6 (7) to reduce conflicts within the exclusive eco-  
7 nomic zone of the United States between the pelagic  
8 longline and recreational fisheries for highly migra-  
9 tory species; and

10 (8) to minimize bycatch, and to the extent pos-  
11 sible, to prevent displacement of fishing effort result-  
12 ing from the conservation actions under this Act.

13 **SEC. 4. POLICY.**

14 It is declared to be the policy of the Congress in this  
15 Act that, consistent with the Magnuson-Stevens Act, all  
16 United States fishermen shall be treated fairly in achiev-  
17 ing national and international fishery conservation and  
18 management objectives and obligations for highly migra-  
19 tory species of the Atlantic Ocean and Gulf of Mexico.

20 **SEC. 5. DEFINITIONS.**

21 In this Act, the following definitions apply:

22 (1) **AFFECTED STATE.**—The term “affected  
23 State” means any of the following States: South  
24 Carolina, Georgia, Florida, Alabama, Mississippi,  
25 Louisiana, and Texas.

1           (2) BILLFISH.—The term “billfish” means blue  
2 marlin, spearfish, sailfish, and white marlin.

3           (3) BYCATCH.—The term “bycatch” means fish  
4 that are harvested in a fishery, but that are not sold  
5 or kept for personal use, and includes economic dis-  
6 cards and regulatory discards. The term does not in-  
7 clude fish released alive under a recreational catch  
8 and release fishery management program.

9           (4) COMMERCIAL FISHING.—The term “com-  
10 mercial fishing” means fishing in which the fish har-  
11 vested, either in whole or in part, are intended to  
12 enter commerce through sale, barter, or trade.

13           (5) ELIGIBLE PERMIT HOLDER.—The term “el-  
14 igible permit holder” means the person or group of  
15 persons who, on the date of enactment of this Act,  
16 holds the Directed Swordfish Limited Access Permit  
17 that was issued based on the landings of an eligible  
18 vessel.

19           (6) ELIGIBLE VESSEL.—The term “eligible ves-  
20 sel” means each vessel listed in section 7(a) of this  
21 Act.

22           (7) FISH.—The term “fish” means finfish, mol-  
23 lusks, crustaceans, and all other forms of marine  
24 animal and plant life other than marine mammals  
25 and birds.

1 (8) FISHING.—The term “fishing” means—

2 (A) the catching, taking, or harvesting of  
3 fish;

4 (B) the attempted catching, taking, or har-  
5 vesting of fish;

6 (C) any other activity which can reason-  
7 ably be expected to result in the catching, tak-  
8 ing, or harvesting of fish; or

9 (D) any operations at sea in support of, or  
10 in preparation for, any activity described in  
11 subparagraphs (A) through (C).

12 The term does not include any scientific research ac-  
13 tivity that is authorized by the Secretary.

14 (9) FISHING VESSEL.—The term “fishing ves-  
15 sel” means any vessel, boat, ship, or other craft  
16 which is used for, equipped to be used for, or of a  
17 type which is normally used for—

18 (A) fishing; or

19 (B) aiding or assisting one or more vessels  
20 at sea in the performance of any activity relat-  
21 ing to fishing, including but not limited to prep-  
22 aration, supply, storage, refrigeration, transpor-  
23 tation, or processing.

1           (10) GEODESIC.—The term “geodesic” means  
2 the shortest line between two points that lies on the  
3 surface of the Earth.

4           (11) HIGHLY MIGRATORY SPECIES.—The term  
5 “highly migratory species” means tuna species, bill-  
6 fish, oceanic sharks, and swordfish.

7           (12) ICCAT.—The term “ICCAT” means the  
8 International Commission for the Conservation of  
9 Atlantic Tunas.

10          (13) MAGNUSON-STEVENSON ACT.—The term  
11 “Magnuson-Stevens Act” means the Magnuson-Ste-  
12 venson Fishery Conservation and Management Act (16  
13 U.S.C. 1801 et seq.).

14          (14) MSY.—The term “MSY” means maximum  
15 sustainable yield.

16          (15) MID-ATLANTIC BIGHT.—The term “mid-  
17 Atlantic bight” means all waters of the Atlantic  
18 Ocean north of 35 degrees north latitude and west  
19 of 71 degrees west longitude.

20          (16) OBSERVER.—The term “observer” has the  
21 meaning that term has in the Magnuson-Stevens Act  
22 (16 U.S.C. 1801 et seq.).

23          (17) OVERFISHED.—The term “overfished” has  
24 the meaning that term has in the Magnuson-Stevens  
25 Act (16 U.S.C. 1801 et seq.).

1           (18) PELAGIC LONGLINE FISHING.—The term  
2           “pelagic longline fishing” means a method of fishing  
3           that uses any fishing gear consisting of a length of  
4           line suspended horizontally in the water above the  
5           bottom from lines attached to surface floats and to  
6           which gangions and hooks are attached and are used  
7           to target pelagic species.

8           (19) PERSON.—The term “person” means any  
9           individual, corporation, partnership, association, or  
10          other entity (whether or not organized or existing  
11          under the laws of any State).

12          (20) RECREATIONAL FISHING.—The term “rec-  
13          reational fishing” means fishing for sport or pleas-  
14          ure.

15          (21) RECORD ADDRESS.—The term “record ad-  
16          dress” means the address of record for each permit  
17          holder and swordfish dealer as maintained in the  
18          National Marine Fisheries Service’s databases.

19          (22) SCRS.—The term “SCRS” means the  
20          Standing Committee on Research and Statistics of  
21          ICCAT.

22          (23) SECRETARY.—The term “Secretary”  
23          means the Secretary of Commerce or a designee of  
24          such Secretary.

1           (24) SWORDFISH DEALER.—The term “sword-  
2 fish dealer” means any person, including foreign  
3 dealers in the territory of the United States, who  
4 purchases, trades for, or barter for the receipt of  
5 any Atlantic swordfish (whether imported or domes-  
6 tic and regardless of origin) for any commercial pur-  
7 pose (including selling, trading, or bartering such  
8 swordfish to others).

9 **SEC. 6. CLOSURE OF HIGHLY MIGRATORY SPECIES CON-**  
10 **SERVATION ZONES.**

11       (a) ATLANTIC CONSERVATION ZONE FOR HIGHLY  
12 MIGRATORY SPECIES.—No person may engage in pelagic  
13 longline fishing in the Atlantic Conservation Zone For  
14 Highly Migratory Species. For purposes of this subsection,  
15 such zone is the area of the exclusive economic zone, sea-  
16 ward of the baseline from which the territorial sea is meas-  
17 ured, and shoreward of the outer boundary of the exclusive  
18 economic zone that is enclosed by a series of geodesics con-  
19 necting in succession the points at the following coordi-  
20 nates:

21           (1) 26 degrees 30 minutes north latitude, 82  
22 degrees 0 minutes west longitude.

23           (2) 24 degrees 0 minutes north latitude, 82 de-  
24 grees 0 minutes west longitude.

1           (3) 24 degrees 0 minutes north latitude, 81 de-  
2           grees 08 minutes west longitude.

3           (4) 27 degrees 52 minutes north latitude, 79  
4           degrees 30 minutes west longitude.

5           (5) 31 degrees 0 minutes north latitude, 79 de-  
6           grees 0 minutes west longitude.

7           (6) 33 degrees 0 minutes north latitude, 76 de-  
8           grees 30 minutes west longitude.

9           (7) 33 degrees 51 minutes north latitude, 78  
10          degrees 23 minutes west longitude.

11          (b) GULF OF MEXICO CONSERVATION ZONE FOR  
12          SWORDFISH.—Every year, during the period of January  
13          1 through Memorial Day, no person may engage in pelagic  
14          longline fishing in the Gulf of Mexico Conservation Zone  
15          For Swordfish. For purposes of this subsection, such zone  
16          is the area of the exclusive economic zone enclosed by a  
17          series of geodesics connecting in succession the points at  
18          the following coordinates:

19                 (1) 30 degrees 0 minutes north latitude, 87 de-  
20                 grees 30 minutes west longitude.

21                 (2) 30 degrees 0 minutes north latitude, 86 de-  
22                 grees 0 minutes west longitude.

23                 (3) 29 degrees 0 minutes north latitude, 86 de-  
24                 grees 0 minutes west longitude.

1           (4) 29 degrees 0 minutes north latitude, 87 de-  
2           grees 30 minutes west longitude.

3           (c) GULF OF MEXICO CONSERVATION ZONE FOR  
4 HIGHLY MIGRATORY SPECIES.—During the period that  
5 begins on the first Memorial Day after the effective date  
6 of this Act and continues through Labor Day of the same  
7 calendar year, and during the period of Memorial Day  
8 through Labor Day in each of the next 4 calendar years,  
9 no person may engage in pelagic longline fishing in the  
10 Gulf of Mexico Conservation Zone For Highly Migratory  
11 Species. For purposes of this subsection, such zone is the  
12 area of the exclusive economic zone seaward of the base-  
13 line from which the territorial sea is measured, that is en-  
14 closed by a series of geodesics connecting in succession  
15 the points at the following coordinates:

16           (1) 26 degrees 0 minutes north latitude, 97 de-  
17           grees 10 minutes west longitude (at approximately  
18           the border between the United States and Mexico).

19           (2) 26 degrees 0 minutes north latitude, 96 de-  
20           grees 0 minutes west longitude.

21           (3) 27 degrees 30 minutes north latitude, 94  
22           degrees 30 minutes west longitude.

23           (4) 27 degrees 30 minutes north latitude, 90  
24           degrees 0 minutes west longitude.

1           (5) 28 degrees 0 minutes north latitude, 90 de-  
2           grees 0 minutes west longitude.

3           (6) 28 degrees 0 minutes north latitude, 89 de-  
4           grees 30 minutes west longitude.

5           (7) 29 degrees 0 minutes north latitude, 87 de-  
6           grees 30 minutes west longitude.

7           (8) 29 degrees 0 minutes north latitude, 86 de-  
8           grees 0 minutes west longitude.

9           (9) 29 degrees 40 minutes north latitude, 85  
10          degrees 20 minutes west longitude (at Cape San  
11          Blas, Florida).

12          (d) MID-ATLANTIC BIGHT CONSERVATION ZONE.—  
13          Every year, during the period of June 1 through Sep-  
14          tember 30, no person may engage in pelagic longline fish-  
15          ing in the Mid-Atlantic Bight Conservation Zone. For pur-  
16          poses of this subsection, such zone is all waters of the ex-  
17          clusive economic zone in the Atlantic Ocean north of 35  
18          degrees north latitude and west of 71 degrees west lon-  
19          gitude.

20          (e) SCIENTIFIC RESEARCH EXCEPTION.—The re-  
21          strictions under this section on fishing do not apply to pe-  
22          lagic longline fishery research authorized by the Secretary.  
23          No fish caught under the research program may be sold  
24          unless authorized by the Secretary.

1 **SEC. 7. PELAGIC LONGLINE FISHING VESSEL PERMIT**  
2 **HOLDER COMPENSATION PROGRAM.**

3 (a) **VOLUNTARY COMPENSATION PROGRAM.**—

4 (1) **IN GENERAL.**—The Secretary shall conduct  
5 a voluntary Pelagic Longline Vessel Permit Holder  
6 Compensation Program, under which the Secretary  
7 shall buy in accordance with this section Directed  
8 Swordfish Initial Limited Access Permits and Tuna  
9 Longline Permits with Incidental Swordfish and  
10 Shark that are in effect under the Magnuson-Ste-  
11 vens Act from each eligible permit holder, by paying  
12 to the eligible permit holder the applicable com-  
13 pensation amount under subsection (d).

14 (2) **ELIGIBLE PERMIT HOLDERS.**—A person  
15 who is the holder of a permit referred to in para-  
16 graph (1) shall be an eligible permit holder for pur-  
17 poses of this section if the Secretary determines,  
18 based on National Marine Fisheries Service data,  
19 that the person—

20 (A) reported that at least 35 percent of  
21 their vessel's annual fishing sets in any one  
22 year in the years 1992 through 1998 were con-  
23 ducted in 1 of the areas closed to fishing under  
24 section 6;

25 (B) reported having conducted at least 25  
26 pelagic longline gear sets in that year;

1 (C) reported that at least 50 percent of the  
2 person's landings in the period 1995 through  
3 1998 were comprised of pelagic longline target  
4 species, including any combination of swordfish,  
5 tunas, mahi-mahi, escolar, and oceanic sharks;  
6 and

7 (D) qualify for a Directed Swordfish Initial  
8 Limited Access Permit or a Tuna Longline Per-  
9 mit with Incidental Swordfish and Shark.

10 (3) CONSISTENCY WITH MAGNUSON-STEVENSON  
11 ACT.—To ensure its effectiveness and equity, such  
12 program shall be carried out consistent with the  
13 standards for capacity reduction programs under  
14 section 312(b) of the Magnuson-Stevens Act (16  
15 U.S.C. 1861a(b)).

16 (b) INELIGIBILITY DUE TO PERMIT OR VESSEL  
17 TRANSFER AFTER NOVEMBER 10, 1999.—The Secretary  
18 shall not purchase a permit under this section if the vessel  
19 authorized to engage in fishing under the permit, or any  
20 Federal fishing permit or license applicable to that vessel,  
21 is transferred to a different person after November 10,  
22 1999.

23 (c) COMPENSATION NOTIFICATION.—No later than  
24 15 days after the date of enactment of this Act, the Sec-  
25 retary shall, by certified mail return receipt requested, ad-

1 dressed to each eligible permit holder, notify each eligible  
2 permit holder of—

3 (1) the compensation provisions of this Act; and

4 (2) any other compensation instructions or  
5 guidance that the Secretary may establish within  
6 such 15-day period other than by rule.

7 (d) COMPENSATION AMOUNT.—

8 (1) IN GENERAL.—The compensation amount  
9 shall be a payment of—

10 (A) \$50,000 per eligible permit holder;

11 plus

12 (B) for each eligible permit holder that re-  
13 ported to the National Marine Fisheries Service  
14 any landings of highly migratory species by any  
15 vessel authorized to be used for fishing under  
16 the permit or permits for which the payment is  
17 made for the period beginning on January 1,  
18 1999, and ending on October 1, 1999, a land-  
19 ing payment that the Secretary determines in  
20 accordance with subsection (e).

21 (2) REDUCTION.—The compensation amount  
22 determined under paragraph (1) shall be reduced by  
23 the amount of any lien, judgment, or other such  
24 final obligation due the United States from the eligi-  
25 ble permit holder. Before making payment under

1 this section, the Secretary shall identify all such out-  
2 standing obligations with respect to an eligible per-  
3 mit holder and notify that person of the amount of  
4 the reduction under this paragraph and the obliga-  
5 tions taken into account.

6 (e) LANDING PAYMENT DETERMINATION.—The Sec-  
7 retary's determinations of all landing payments under sub-  
8 section (d) shall be final and shall be made as follows:

9 (1) The basis for each landing payment shall be  
10 the gross ex-vessel value of all fish (regardless of  
11 species) landed by the eligible vessel during any 1  
12 calendar year in the period beginning with the cal-  
13 endar year 1992 and ending with calendar year  
14 1998.

15 (2) The amount of each landing payment shall  
16 be 100 percent of such basis, up to \$400,000.

17 (3) No later than 75 days after the date of en-  
18 actment of this Act each permit holder who desires  
19 to be compensated under this section must—

20 (A) advise the Secretary which single cal-  
21 endar year from 1992 through 1998 the permit  
22 holder chooses pursuant to paragraph (1) as  
23 the basis for the permit holder's landing pay-  
24 ment; and

1 (B) submit to the Secretary the permit  
2 holder's documentation for the gross ex-vessel  
3 value of all fish (regardless of species) landed  
4 by the eligible vessel during the basis year cho-  
5 sen, that—

6 (i) is the form of trip tickets or any  
7 relevant criteria required by the Secretary  
8 to verify eligibility (or other landing docu-  
9 mentation issued by the first ex-vessel fish  
10 buyer or buyers) for the eligible vessel that  
11 clearly establishes on their face the identity  
12 and location of the first fish buyer;

13 (ii) states each vessel from which the  
14 fish was bought;

15 (iii) states the date the fish was  
16 bought, and how many pounds of each spe-  
17 cies of fish was bought; and

18 (iv) states how much per pound the  
19 landing vessel was paid for each species of  
20 fish bought (no other documentation shall  
21 be acceptable); or

22 (C) advise the Secretary that the permit  
23 holder does not possess adequate documentation  
24 and, consequently elects to have the Secretary  
25 calculate a default landing payment.

1           (4) If the permit holder submits adequate docu-  
2           mentation the Secretary shall use it to calculate the  
3           landing payment. If the permit holder elects to have  
4           the Secretary calculate a default landing payment  
5           (or submits inadequate documentation), the Sec-  
6           retary shall calculate a default payment by applying  
7           average ex-vessel prices (where possible, for each  
8           month of landing and State or area of landing as  
9           maintained in the National Marine Fisheries Serv-  
10          ice’s databases) to each pound of species of fish  
11          landed by the permit holder’s eligible vessel during  
12          the basis year that the permit holder chooses.

13          (f) COMPENSATION OFFER.—No later than 135 days  
14 after the date of enactment of this Act, the Secretary  
15 shall, by certified mail return receipt requested, addressed  
16 to each eligible permit holder at its record address, offer  
17 each eligible permit holder compensation for an amount  
18 determined in accordance with this section. The Sec-  
19 retary’s offer shall be final and not subject to negotiation  
20 or counteroffer.

21          (g) COMPENSATION OFFER ACCEPTANCE.—

22           (1) IN GENERAL.—Each eligible permit holder  
23           who desires to be compensated in accordance with  
24           this Act must accept the Secretary’s compensation

1 offer no later than 165 days after the date of enact-  
2 ment of this Act. Such acceptance—

3 (A) must be in writing signed by the per-  
4 mit holder or permit holder's duly authorized  
5 representative and delivered to the Chief, Fi-  
6 nancial Services Division, National Marine  
7 Fisheries Service, 1315 East-West Highway,  
8 Silver Spring, MD 20910-3282, and the ac-  
9 ceptance letter shall include any necessary di-  
10 rect wire transfer instructions;

11 (B) shall constitute the permit holder's ir-  
12 revocable consent for all other restrictions that  
13 this Act permanently requires with respect to  
14 the eligible vessel, and all such restrictions shall  
15 apply to the permit holder on and after the ef-  
16 fective date under section 6(f); and

17 (C) shall be accompanied by all commercial  
18 fishing permits and licenses held by the permit  
19 holder that are applicable to the eligible vessel.

20 (2) DELIVERY BY MAIL.—If the acceptance is  
21 mailed, it must be mailed by certified mail return re-  
22 ceipt requested. The Secretary shall consider the  
23 date of acceptance to be the date on which it was  
24 mailed.

1           (3) DELIVERY OTHER THAN BY MAIL.—If ac-  
2           ceptance is delivered by any other means, the Sec-  
3           retary shall consider the date of acceptance to be the  
4           date on which the Secretary first received the ac-  
5           ceptance. The Secretary's determinations regarding  
6           the timeliness of the acceptance shall be final.

7           (h) COMPENSATION PAYMENT.—No later than 195  
8           days after the date of enactment of this Act, the Secretary  
9           shall, in accordance with this section, pay compensation  
10          in full to each permit holder whose acceptance of the Sec-  
11          retary's offer was timely.

12          (i) FEDERAL LOAN.—Under the authority of title XI  
13          of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f  
14          and 1279g), the Secretary shall provide up to \$20,000,000  
15          through a direct loan obligation for any payments author-  
16          ized under this section that are not fully paid for by funds  
17          appropriated under subsection (j) of this section. These  
18          payments shall be treated as payments under a fishing ca-  
19          pacity reduction program established under section 312 of  
20          the Magnuson-Stevens Act (16 U.S.C. 1861a). Notwith-  
21          standing subsection (b)(4) of such section 1111, the debt  
22          obligation under this subsection shall have a maturity of  
23          30 years.

24          (j) AUTHORIZATION OF APPROPRIATIONS.—There  
25          are authorized to be appropriated—

1           (1) \$100,000 for the costs (as that term is de-  
2           fined in section 502 of the Congressional Budget  
3           and Impoundment Control Act of 1974 (2 U.S.C.  
4           661a)) for the \$20,000,000 direct loan authorized  
5           under this section; and

6           (2) \$30,000,000 for the balance of the com-  
7           pensation payments authorized under this section.

8           (k) BLENDED FUNDING SOURCE.—All funds appro-  
9           priated under subsection (j) shall be available for the pay-  
10          ment authorized under this section and shall be applied  
11          so as to ensure that 40 percent of the cost of such pay-  
12          ments is derived from the direct loan authorized under  
13          this section and 60 percent of the cost of such payments  
14          is derived from funds appropriated for payment under this  
15          section. If any amounts appropriated remain unexpended  
16          and unobligated after all payments are made under this  
17          section, the remainder of such amounts shall be available  
18          for obligation and expenditure for the research program  
19          established under section 12.

20   **SEC. 8. RESTRICTIONS ON VESSELS.**

21          (a) IN GENERAL.—

22               (1) REVOCATION OF FISHING PERMITS.—All  
23          Federal and State commercial fishing permits and li-  
24          censes held by an eligible permit holder accepting  
25          compensation under section 7 shall be revoked upon

1 receipt by the Secretary of the letter of acceptance  
2 under section 7(g).

3 (2) USE OF VESSEL PROHIBITED.—A vessel  
4 that was authorized to engage in fishing under a  
5 permit or license that is revoked under this section  
6 shall never again be used by any person anywhere in  
7 the world (regardless of the national status of such  
8 person) for commercial fishing.

9 (b) INELIGIBILITY FOR FISHERIES ENDORSE-  
10 MENT.—Section 12108(d) of title 46, United States Code,  
11 is amended by inserting “, or a vessel whose commercial  
12 fishing permits and licenses have been revoked under sec-  
13 tion 8(a)(2) of the Atlantic Highly Migratory Species Con-  
14 servation Act of 2000,” before “is not eligible”.

15 (c) TRANSFER TO FOREIGN OWNERSHIP OR REG-  
16 ISTRY PROHIBITED.—

17 (1) PROHIBITED TRANSFER.—No person may—

18 (A) sell, lease, charter, deliver, or in any  
19 manner transfer, or agree to sell, lease, charter,  
20 deliver, or in any manner transfer, to a person  
21 who is not a citizen of the United States, any  
22 interest in or control of a vessel that was au-  
23 thorized to be used to engage in fishing under  
24 a permit or license revoked under this section;  
25 or

1 (B) place such a vessel under foreign reg-  
2 istry or operate that vessel under the authority  
3 of a foreign country.

4 (2) VOID EFFECT.—Any sale, lease, charter, de-  
5 livery, or transfer of a vessel, or interest in or con-  
6 trol of a vessel, in violation of this subsection is void.

7 (d) PENALTIES.—

8 (1) CRIMINAL PENALTY.—Any person that  
9 knowingly violates this section, or knowingly submits  
10 false documentation for the landing payment under  
11 section 7, shall be fined under title 18, United  
12 States Code, imprisoned for not more than 5 years,  
13 or both.

14 (2) FORFEITURE.—A vessel (including its fish-  
15 ing gear, furniture, appurtenances, stores, and  
16 cargo) may be seized by, and forfeited to, the United  
17 States Government if—

18 (A)(i) the vessel is placed under foreign  
19 registry or operated under the authority of a  
20 foreign country in violation of this section;

21 (ii) a person knowingly sells, leases, char-  
22 ters, delivers, or transfers the vessel, or an in-  
23 terest in or control of that vessel, in violation  
24 of this section;

1 (B) the vessel is used for commercial fish-  
2 ing in violation of this section; or

3 (C) a permit holder submits false docu-  
4 mentation for the landing payment under sec-  
5 tion 7 with respect to landings made, or alleged  
6 to have been made, using the vessel.

7 (3) CIVIL PENALTY.—A person that sells,  
8 leases, charters, delivers, or transfers a vessel (or an  
9 interest in or control of a vessel) in violation of this  
10 section, uses a vessel for commercial fishing in viola-  
11 tion of this section, or submits false documentation  
12 for the landing payment under section 7 is liable to  
13 the United States Government for a civil penalty of  
14 not more than \$10,000 for each violation.

15 (e) VESSEL IDENTIFICATION SYSTEM.—The Sec-  
16 retary of Transportation shall ensure that, for each vessel  
17 that was authorized to be used to engage in fishing under  
18 a permit or license that is revoked under this section, in-  
19 formation is recorded and maintained in the vessel identi-  
20 fication system established under chapter 125 of title 46,  
21 United States Code, stating that—

22 (1) the vessel is prohibited under this Act from  
23 engaging in commercial fishing anywhere in the  
24 world;

1           (2) the vessel is not eligible for any commercial  
2 fishing permit or license, regardless of whether the  
3 permit or license is issued by the Federal Govern-  
4 ment, or a State government or political subdivision  
5 thereof; and

6           (3) use of the vessel in any commercial fishing  
7 operation may result in Federal civil and criminal  
8 penalties and forfeiture of the vessel and its cargo  
9 and equipment.

10 **SEC. 9. RESTRICTIONS ON COMPENSATED ELIGIBLE PER-**  
11 **MIT HOLDERS.**

12           Any eligible permit holder who has been compensated  
13 under section 7 is prohibited from reentering the Directed  
14 Swordfish Limited Access Fishery or Atlantic Tuna  
15 Longline Fishery.

16 **SEC. 10. REPAYMENT OF DIRECT LOAN.**

17           (a) IN GENERAL.—There is established a fishery con-  
18 servation fee system, to be administered by the Secretary,  
19 for repayment of the direct loan made under section 7(f).  
20 The commercial share of the loan shall be repaid with fees  
21 received by the United States under subsection (b), and  
22 the recreational share of the loan shall be repaid with fees  
23 received by the United States under subsection (c). Fees  
24 under this section shall be established without regard to

1 the requirements of section 304 or 312 of the Magnuson-  
2 Stevens Act (16 U.S.C. 1854 and 1861a).

3 (b) COMMERCIAL SHARE.—

4 (1) DESCRIPTION.—The commercial share of  
5 the loan made under section 7(f) shall be 50 percent  
6 of the original principal amount of the loan plus all  
7 interest accruing on that 50 percent of the principal  
8 amount.

9 (2) METHOD OF PAYMENT.—The Secretary  
10 shall, for the repayment of the commercial share of  
11 the loan obligation, plus associated interest, estab-  
12 lish a fee, that—

13 (A) shall be an amount determined by the  
14 Secretary to be sufficient to amortize the com-  
15 mercial share over the loan term of 30 years,  
16 not to exceed five cents, for each pound of all  
17 Atlantic swordfish sold by swordfish dealers;

18 (B) shall be collected beginning on the  
19 365th day after the date of enactment of this  
20 Act and continue without interruption, regard-  
21 less of the loan's maturity until such commer-  
22 cial share is fully paid; and

23 (C) shall be deducted by each swordfish  
24 dealer from all proceeds received from the sale  
25 by the dealer of all Atlantic swordfish and shall

1 be accounted for and forwarded by the dealer to  
2 the Secretary in the following manner:

3 (i) The fee for all proceeds received  
4 during each month shall be forwarded by  
5 not later than the 15th calendar day of  
6 each month immediately following the  
7 month for which the fees were collected,  
8 and fee payments shall be late if not re-  
9 ceived at the lock box account designated  
10 under clause (iii) by the 20th calendar day  
11 of each such immediately following month.

12 (ii) All fees forwarded shall include a  
13 settlement sheet that establishes the total  
14 proceeds received during the previous  
15 month, the total pounds of all Atlantic  
16 swordfish sold upon which such receipts  
17 were based, and the total fee forwarded.

18 (iii) All fees shall be forwarded to a  
19 lock box account that the Secretary shall  
20 designate by a letter to each swordfish  
21 dealer holding a swordfish dealer's permit  
22 at its record address.

23 (iv) All fee matters shall be in accord-  
24 ance with such other conditions as the Sec-  
25 retary shall establish, and may amend

1 from time to time by a letter (but not by  
2 regulation or any other form of notice)  
3 sent to each swordfish dealer holding a  
4 swordfish dealer's permit at its record ad-  
5 dress.

6 (3) DUTY OF PROMPT NOTIFICATION.—The  
7 Secretary shall immediately notify swordfish dealers  
8 and swordfish limited access permit holders when  
9 the commercial share has been fully repaid and the  
10 collection requirement terminates. This shall be ac-  
11 complished by the Secretary's letter sent to each  
12 swordfish dealer, holding a swordfish dealer's permit  
13 and each swordfish access permit holder at its  
14 record address.

15 (4) AUDIT.—The Secretary may at reasonable  
16 times and places conduct audits of swordfish dealer's  
17 books and records to determine compliance with this  
18 section. Swordfish dealers shall furnish such books  
19 and records as the Secretary may reasonably require  
20 for the conduct of such audits.

21 (5) PENALTY INTEREST ON LATE FEE PAY-  
22 MENTS.—Swordfish dealers shall pay penalty inter-  
23 est equal to one and one-half percent the full  
24 amount of each late fee payment for each month, or

1       portion thereof, in which a late fee payment remains  
2       unpaid.

3           (6) ENFORCEMENT.—The Secretary shall col-  
4       lect all unpaid fees by such manner as the Secretary  
5       considers appropriate, including bringing collection  
6       enforcement actions at law and attaching and liqui-  
7       dating swordfish dealers' assets.

8           (7) CONTINUING OBLIGATION.—Notwith-  
9       standing that the commercial share of the loan is  
10      not paid in full by the loan's maturity date, the fee  
11      shall continue without interruption until such time  
12      as the commercial share is paid in full.

13      (c) RECREATIONAL SHARE.—

14           (1) DESCRIPTION.—The recreational share of  
15      the loan made under section 7(f) shall be 50 percent  
16      of the original principal amount of the loan plus all  
17      interest accruing on 50 percent of the principal  
18      amount.

19           (2) METHODS OF PAYMENT.—The recreational  
20      share of the loan obligation, plus associated interest,  
21      shall be repaid through payment by affected States  
22      under paragraph (3), and by the sale of fishery con-  
23      servation permits issued under paragraph (4).

24           (3) PAYMENT BY AFFECTED STATE.—A vessel  
25      registered in an affected State will not be required

1 to purchase a Federal fishery conservation permit if  
2 the State by no later than 240 days after the date  
3 of enactment of this Act, makes a binding, legally  
4 enforceable agreement with the United States Gov-  
5 ernment to pay fully, within 4 years after the date  
6 of enactment of this Act, a fee equal to the State's  
7 recreational share allocation, plus associated inter-  
8 est. The allocations for each affected State are as  
9 follows:

10 (A) South Carolina—9.4 percent.

11 (B) Georgia—4.3 percent.

12 (C) Florida—40.0 percent.

13 (D) Alabama—3.2 percent.

14 (E) Mississippi—2.6 percent.

15 (F) Louisiana—14.6 percent.

16 (G) Texas—19.9 percent.

17 (4) FISHERY CONSERVATION PERMITS.—

18 (A) ISSUANCE AND SALE.—Beginning not  
19 later than 240 days after the date of enactment  
20 of this Act and thereafter until the recreational  
21 share is fully repaid, the Secretary shall issue,  
22 upon payment of a fee of \$25, an annual fish-  
23 ery conservation permit authorizing a vessel  
24 over 18 feet in length to be used to engage in  
25 recreational fishing for highly migratory species

1 in any area closed under section 6. For vessels  
2 registered in a State electing to pay the rec-  
3 reational share, the Secretary shall issue the  
4 permit free of charge.

5 (B) MEANS OF SALE OR ISSUANCE.—The  
6 Secretary—

7 (i) may, to the extent practicable, au-  
8 thorize the permits to be issued or sold by  
9 a variety of persons, including State agen-  
10 cies, retail dealers, and through convenient  
11 means, including the Internet and toll-free  
12 telephone numbers; and

13 (ii) may establish procedures for such  
14 persons to account for and forward the  
15 proceeds of sale to the Secretary.

16 (C) LIMITATION ON PERMITTING.—The  
17 Secretary may not issue such permit after the  
18 repayment of the recreational share of the loan  
19 obligation.

20 (D) OBTAINING FISHERY CONSERVATION  
21 PERMIT.—Vessels registered in affected States  
22 agreeing to pay the recreational share shall ob-  
23 tain a fishery conservation permit from the Sec-  
24 retary or the affected State where the vessel is  
25 registered.

1           (5) PROHIBITION.—After the 240th day after  
2           the date of enactment of this Act until the rec-  
3           reational share is fully repaid under this Act, no per-  
4           son may engage in recreational fishing for highly mi-  
5           gratory species in an area that is closed to fishing  
6           under section 6 from a vessel of 18 feet or more in  
7           length, unless a valid fishery conservation permit  
8           has been issued for the vessel. It shall be a rebut-  
9           table presumption that any recreational vessel 18  
10          feet or more in length, in such a closed area, and  
11          having gear aboard capable of catching highly mi-  
12          gratory species, is fishing for highly migratory spe-  
13          cies.

14          (6) DUTY OF PROMPT NOTIFICATION.—The  
15          Secretary shall immediately notify the Coast Guard,  
16          the heads of the agencies of the affected States that  
17          have responsibility for marine fishery law enforce-  
18          ment, retail dealers and others who sell fishery con-  
19          servation permits under this subsection, and the  
20          public when—

21                  (A) payment of the recreational share be-  
22                  gins, and

23                  (B) the recreational share has been fully  
24                  repaid.

1 This shall be accomplished by a Federal Register no-  
2 tice, direct communication, and such other means as  
3 the Secretary determines are effective and appro-  
4 priate.

5 (d) APPLICATION OF FEE PAYMENTS.—Amounts re-  
6 ceived by the United States as fees under this section shall  
7 be applied to repay the amount of the loan under section  
8 7(f) (including interest thereon) in accordance with this  
9 section.

10 **SEC. 11. PROHIBITED ACT UNDER MAGNUSON-STEVENSON**  
11 **ACT.**

12 A person who violates this Act shall, in addition to  
13 any other penalties provided in this Act or elsewhere, be  
14 considered to have committed an act prohibited under sec-  
15 tion 307(1)(A) of the Magnuson-Stevens Act (16 U.S.C.  
16 1857(1)(A)).

17 **SEC. 12. BILLFISH BYCATCH MORTALITY REDUCTION RE-**  
18 **SEARCH PROGRAM.**

19 (a) ESTABLISHMENT OF PROGRAM.—There is estab-  
20 lished within the National Marine Fisheries Service at the  
21 Southeast Fisheries Science Center a Pelagic Longline  
22 Billfish Bycatch and Mortality Reduction Research Pro-  
23 gram. The Program shall identify and test a variety of  
24 pelagic longline fishing gear configurations and uses, in-  
25 cluding recreational catch and release, and determine

1 which of those configurations and uses are the most effec-  
2 tive in reducing billfish bycatch mortality and oceanic  
3 shark and sea turtle mortality in the pelagic longline fish-  
4 eries of the Gulf of Mexico and in the Mid-Atlantic Bight  
5 Conservation Zone established under section 6. The pro-  
6 gram shall also include provision for observers to be placed  
7 on pelagic longline fishing vessels for the purposes of mon-  
8 itoring the fishery and participating in the research pro-  
9 gram. To fund the observers, the Secretary shall collect  
10 a fee that shall not exceed 1 percent of the ex-vessel value  
11 of fish harvested from Atlantic and Gulf of Mexico pelagic  
12 longline vessels, and shall be collected at either the time  
13 of the landing, filing of a landing report, or sale of such  
14 fish during a fishing season in the last quarter of the cal-  
15 endar year in which the fish is harvested.

16 (b) PROGRAM DESIGN.—The Program design shall  
17 be developed through a scientific workshop organized and  
18 convened by the Southeast Fisheries Science Center of the  
19 National Marine Fisheries Service. Knowledgeable mem-  
20 bers of the pelagic longline fishing sector, the recreational  
21 billfish and tuna sector, and the conservation community,  
22 along with scientists associated with each such entity,  
23 shall be invited to participate on the workshop design  
24 team. The Center shall make its best efforts to ensure that  
25 each such sector is fairly represented on the design team.

1 The program design shall be submitted to the Secretary  
2 no later than 120 days after the date of enactment of this  
3 Act and shall include a statistically significant rec-  
4 ommendation for the level of observer coverage on pelagic  
5 longline fishing vessels that is necessary to monitor the  
6 fishery effectively and participate in the research program.  
7 The Secretary shall aggressively monitor the mid-Atlantic  
8 bight during the months it is open to pelagic longline fish-  
9 ing to determine if there has been a substantial net in-  
10 crease in the number of vessels or effort from the remain-  
11 ing pelagic longline fleet and whether that net increase  
12 is negatively impacting billfish, shark, and turtle bycatch.  
13 If the Secretary so finds, the Secretary shall immediately  
14 report the finding to the Committee on Commerce,  
15 Science, and Transportation of the Senate and the Com-  
16 mittee on Resources of the House of Representatives,  
17 along with proposed statutory language to address the im-  
18 pact.

19 (c) REPORT TO CONGRESS.—No later than 90 days  
20 after the third year of closure of the Gulf of Mexico Con-  
21 servation Zone For Highly Migratory Species under sec-  
22 tion 6(c), the Secretary shall submit a report on the Pro-  
23 gram’s determinations to the Committee on Commerce,  
24 Science, and Transportation of the Senate and the Com-  
25 mittee on Resources of the House of Representatives. The

1 report shall include proposed statutory language for legis-  
2 lation that may be appropriate prior to the expiration of  
3 the closure of the Gulf of Mexico Conservation Zone For  
4 Highly Migratory Species.

5 **SEC. 13. REALLOCATION OF TOTAL ALLOWABLE CATCH.**

6 The Secretary shall reallocate, to the United States  
7 commercial swordfish hand gear fishing fleet, the portion  
8 of total allowable catch of swordfish by the United States  
9 pelagic longline fishing fleet that was attributable to ves-  
10 sels that were authorized to engage in fishing under per-  
11 mits and licenses revoked under section 8. Such realloca-  
12 tion shall be based on the data used to calculate landing  
13 payments under section 7(e) for such vessels.

14 **SEC. 14. INTERIM REGULATIONS.**

15 (a) INTERIM REGULATIONS.—The Secretary may not  
16 implement before a date that is either 1 year after the  
17 date on which the Secretary submits a report to the Con-  
18 gress under section 12(c) or 3 years after the date of en-  
19 actment of this Act, whichever is earlier, rules or regula-  
20 tions establishing time-area closures for pelagic longline  
21 fishing in the Atlantic Ocean by United States fishing ves-  
22 sels that are in addition to those time-area closures estab-  
23 lished under this Act.

24 (b) EXCEPTION.—The prohibition set forth in sub-  
25 section (b) shall not apply—

1           (1) to rules or regulations necessary to imple-  
2           ment any recommendation of ICCAT or Act of Con-  
3           gress;

4           (2) to technical and conforming corrections to  
5           those time-area closures established under this Act  
6           that the Secretary finds are necessary to meet the  
7           conservation purposes of this Act, for public safety  
8           and enforcement of this Act;

9           (3) if the Secretary, after consultation with and  
10          considering the comments of affected Regional Fish-  
11          ery Management Councils, the Commissioners ap-  
12          pointed under the Atlantic Tunas Convention Act,  
13          and the relevant advisory panels established under  
14          section 302(g) of the Magnuson-Stevens Act (16  
15          U.S.C. 1852(g)), and after providing an opportunity  
16          for public comment, finds that—

17                (A) fishing by United States pelagic  
18                longline fishing vessels is hindering the con-  
19                servation of an Atlantic highly migratory spe-  
20                cies of fish or sea turtles; and

21                (B) time-area closures for pelagic longline  
22                fishing in the Atlantic Ocean by United States  
23                fishing vessels that are in addition to those  
24                time-area closures established under this Act  
25                are necessary to address such emergency and

1           there are no other practicable means available  
2           to address such emergency; or

3           (4) to any action taken under either the Marine  
4       Mammal Protect Act of 1972 or the Endangered  
5       Species Act of 1973.

6       **SEC. 15. VESSEL MONITORING DEVICES.**

7           (a) VESSEL MONITORING DEVICE REQUIREMENT.—  
8       After the 165th day after the date of enactment of this  
9       Act, no pelagic longline vessel shall operate within the At-  
10      lantic highly migratory species fishery without a vessel  
11      monitoring device approved by the Secretary.

12          (b) LIMITATION ON REQUIREMENT.—A vessel that is  
13      prohibited by section 8 from being used to engage in com-  
14      mercial fishing is not required to carry a vessel monitoring  
15      device under this section.

16      **SEC. 16. EFFECTIVE DATE.**

17          Sections 6 and 7 shall take effect on the date suffi-  
18      cient funds are available to carry out section 7 and section  
19      12.

20      **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

21          There are authorized to be appropriated to the  
22      Secretary—

23              (1) \$250,000 per fiscal year for the cost of car-  
24      rying out the compensation program under section  
25      7; and

1                   (2) \$3,000,000 for research under section 12;  
2 plus such other sums as may be necessary for carrying  
3 out all other functions in the Act. In addition, there are  
4 authorized to be appropriated to the Secretary not more  
5 than \$400,000 for the Southeast Fisheries Science Center  
6 to conduct additional research on billfish and swordfish.

○